

February 12, 2010

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554

Re: GN Docket Nos. 09-29, 09-47, 09-51; RM-11358; WC Docket No. 09-223  
*Ex Parte* Notice

Dear Ms. Dortch:

On Monday, February 8, 2010, Heather Burnett Gold, Senior Vice President of External Affairs at XO Communications, LLC ("XO"), Lisa Youngers, Vice President, Federal Affairs at XO, and Richard Metzger and Gina Keeney of Lawler, Metzger, Keeney & Logan, LLC spoke by telephone with Paul de Sa of the Federal Communications Commission.<sup>1</sup> During this call, XO's representatives urged that the Commission recognize in its National Broadband Plan (1) the vital importance of pro-competition policies to promoting affordable broadband service, and (2) the key role of copper plant in achieving wider broadband deployment. We also addressed CBeyond, Inc.'s November 2009 petition for rulemaking on the unbundling of fiber loops, consistent with XO's recent comments on that filing.<sup>2</sup>

In asking that the Commission's National Broadband Plan recognize the need for pro-competition policies, we described how robust competition is critical to advancing the Commission's broadband goals, including increased broadband penetration, greater innovation, and lower prices. We explained that a competitive broadband marketplace requires efficient access to last-mile facilities and services, bottlenecks that are currently dominated by incumbent local exchange carriers ("LECs"). We also urged that the Commission make the interests of small businesses a key priority in the National Broadband Plan. The Commission's Plan could provide an important roadmap for spurring job growth through technology deployment in this critical sector of the economy.

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<sup>1</sup> This *ex parte* notice is timely filed, given the closing of the Federal government from February 8-11, 2010 due to snow conditions in Washington, D.C.

<sup>2</sup> See Comments of XO Communications, LLC, WC Docket No. 09-223 (Jan. 22, 2010); Cbeyond, Inc. Petition for Expedited Rulemaking to Require Unbundling of Hybrid, FTTH, and FTTC Loops Pursuant to 47 U.S.C. § 251(c)(3) of the Act (Redacted Version), WC Docket No. 09-223 (Nov. 16, 2009).

We emphasized that today's existing, ubiquitously deployed copper infrastructure is a ready solution for the delivery of broadband services throughout the United States and asked that the Commission's National Broadband Plan recognize the key role copper plant can play in spurring broadband deployment. Given its nationwide reach, copper facilities can be used for faster and more cost-effective deployment of broadband than other technologies, including the fiber facilities that currently extend to less than twenty percent of the nation's business locations. Significantly, advances in copper technology have enabled the deployment of "Ethernet Over Copper" ("EoC") technology, which supports data speeds up to 45 Mbps today and possibly greater than 100 Mbps in the future. Certainly, the cost-effective deployment of EoC promises important benefits for rural areas of the United States that have previously lacked affordable broadband access. This technology will promote regional economic development in rural areas by attracting small, medium, and large businesses that require high-speed transmission services.

Subsequent to our call, XO electronically transmitted to Mr. de Sa a copy of a report from Hatteras Networks on EoC filed in GN Docket No. 09-51 in June 2009, as well as the cover letter for that submission.<sup>3</sup> Pursuant to section 1.1206(b) of the Commission's rules, 47 C.F.R. § 1.1206(b), this *ex parte* notification is being filed electronically for inclusion in the public record of the above-referenced proceedings.

Respectfully submitted,

/s/ Heather Burnett Gold

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cc: Paul de Sa

<sup>3</sup> See Letter from Jeffrey White, President, Hatteras Networks, to Marlene H. Dortch, Secretary, FCC, GN Docket No. 09-51 (June 8, 2009) (attaching *Leveraging Installed Copper to Reach Underserved and Unserved Community Anchor Institutions*, Hatteras Networks).